

THOMAS F. EAGLETON
MISSOURI

7-3-80

United States Senate

WASHINGTON, D.C. 20510

July 2, 1980

Mr. Alan K. Campbell
Director
Office of Personnel Management
1900 E Street
Washington, D.C. 20415

Dear Scotty:

As you probably have learned, the whole Senior Executive Service concept almost went "down the tubes" last night in the House-Senate Conference on the FY'80 Supplemental. It was the very last matter resolved in the early, early morning hours.


The House conferees were furious at the way NASA had prostituted the SES concept. We finally agreed on a 25% maximum without a cap.

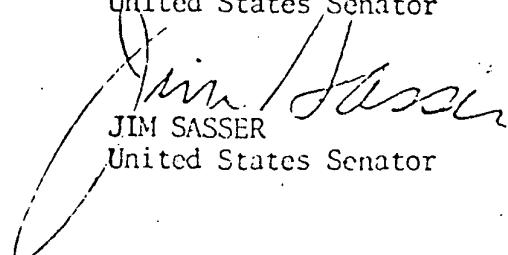
If several of the agencies come in at 25% or 24.9% or 24.8% or anything like that indicating a disregard for the SES concept as previously demonstrated by NASA, then I predict that you can "kiss SES goodbye."

For God's sake, see to it that good judgment is used in this matter.

Yours very truly,


THOMAS F. EAGLETON
United States Senator


WARREN G. MAGNUSON
United States Senator


JIM SASSER
United States Senator

CC: Dr. Robert A. Frosch

*Copy forwarded to
OSD 7-14*

OLC 80-1410/2

28 July 1980

MEMORANDUM FOR: See Distribution

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FROM:

Chief, Legislation Division

SUBJECT:

Senior Executive Bonuses/House Action on
the Fiscal Year 1981 Legislative Branch
Appropriation Bill

1. Attached is an excerpt from the Congressional Record which covers House action on Senior Executive bonuses for fiscal year 1981. During its consideration of the fiscal year 1981 Legislative Branch Appropriation Bill, the House adopted an amendment eliminating a provision containing a \$52,750 limit on total compensation resulting from Senior Executive Bonuses. The House substituted a provision limiting the number of Senior Executive Service and similar personnel system employees eligible for bonuses to no more than 25 percent of the number of Senior Executive Service or comparable personnel system positions in an agency. This is the same provision recently enacted for fiscal year 1980. The Senate is likely to go along with this 25 percent compromise for fiscal year 1981.

2. Note that the Office of Personnel Management has apparently promised intensive oversight of the SES system.

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Attachments

Distribution:

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GMC:em (24 July 80)

STAT

July 22, 1980

CONGRESSIONAL RECORD—HOUSE

H 6309

Nor shall any such funds be used to authorize or to pay comparable cash awards under any personnel system established on or after October 13, 1978, similar to the Senior Executive Service for any office or position in grade GS-16, 17, or 18 of the General Schedule or in level IV or V of the Executive Schedule, or any comparable office or position in the executive (including the United States Postal Service or any Government corporation), judicial, or legislative branch or in the government of the District of Columbia at a rate in excess of that allowed under this subsection for a number of the Senior Executive Service.

(d) For purposes of administering any provision of law, rule, or regulation which provides retirement, life insurance, or other employee benefit, which requires any deduction or contribution, or which imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate of salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

The Clerk read as follows:

Amendment offered by Mr. MICHEL: On page 32, beginning with line 13, strike everything through line 6 on page 33 and insert the following:

"(c) None of the funds appropriated by this Act or any other Act shall be used to pay performance awards in fiscal year 1981 under 5 U.S.C. 5384 or any comparable personnel system established on or after October 13, 1978 to more than 25 percent of the number of Senior Executive Service or comparable personnel system positions in any such agency."

Mr. YATES. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Illinois reserves a point of order.

(Mr. MICHEL asked and was given permission to revise and extend his remarks.)

Mr. MICHEL. Mr. Chairman, this amendment is a carbon copy of the compromise language I proposed in the conference report for the recently enacted supplemental appropriation bill for 1980 having to do with the senior executive bonus item.

It would, in other words, insure a continuation of the same policy in 1981 as we have in 1980.

What the amendment would do is to reduce the number of senior executives eligible for bonus payments from 50 percent, as provided for in the authorizing law, to 25 percent, and would remove the cap on the amount of the bonus payment that we have in this bill as reported.

My amendment addresses perhaps the major concern regarding the program of bonus payments—that if 50 percent of the employees could receive bonuses, the bonus might be used as a straight pay increase mechanism rather than as a reward for outstanding performance. Making only 25 percent eligible would more effectively force the agency to take performance into account and reward only those most deserving of a bonus.

At the same time, this approach would allow the incentive element of the program to be fully tested. A cap at \$52,750, allowing bonuses of a few thousand dollars, really doesn't provide all that much of an incentive. We ought to give this incentive feature a chance to really be carried out in practice before undermining it with a cap of this sort. With all the

complaints we hear about bureaucratic bungling, surely we ought not to stand in the way of trying something new to improve the picture.

I urge adoption of the amendment.

Mr. BENJAMIN. Mr. Chairman, will the gentleman yield?

Mr. MICHEL. I am happy to yield.

Mr. BENJAMIN. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, we have reviewed this amendment. This is precisely what was agreed to in the supplemental conference, which was accepted by both Houses.

We have also reviewed the procedure with Mr. CAMPBELL, the Director of the Office of Personnel Management, and we are satisfied that as a result of that conference there is going to be a tremendous amount of oversight on the SES system and we are grateful for that. This side accepts the gentleman's amendment.

Mr. MICHEL. Mr. Chairman, I thank the distinguished chairman for his comments.

Mr. YATES. Mr. Chairman, I withdraw the point of order.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Illinois (Mr. MICHEL).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. BAUMAN

Mr. BAUMAN. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Amendment offered by Mr. BAUMAN: On page 33, after line 13, insert the following new section:

"Sec. 307. None of the funds appropriated or otherwise made available in this Act for the House of Representatives or for any other agency shall be used to provide legal representation for any employee without the specific authorization of the Congress."

Mr. YATES. Mr. Chairman, I reserve a point of order on the amendment.

The CHAIRMAN. The gentleman from Illinois reserves a point of order.

Mr. BAUMAN. Mr. Chairman, I yield to the gentleman from Indiana.

Mr. BENJAMIN. Mr. Chairman, I thank the gentleman for yielding.

What the gentleman has incorporated into his amendment is language which has appeared in previous legislative branch appropriations bills.

This side accepts the amendment and thanks the gentleman for it.

Mr. BAUMAN. Mr. Chairman, I thank the gentleman.

Mr. YATES. Mr. Chairman, I withdraw my point of order.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Maryland (Mr. BAUMAN).

The amendment was agreed to.

AMENDMENT OFFERED BY MR. MILLER OF OHIO

Mr. MILLER of Ohio. Mr. Chairman, I offer an amendment.

The Clerk read as follows:

Page 33, after line 13, add:

Sec. 309. Of the total budget authority provided in this Act, for payments not required by law, 2 per centum shall be withheld from obligation and expenditure; *Provided*, That of the amount provided in this Act for each appropriation account, activity, and project, for payments not required by

law, the amount withheld shall not exceed 5 per centum.

(Mr. MILLER of Ohio asked and was given permission to revise and extend his remarks.)

Mr. MILLER of Ohio. Mr. Chairman, I will not take the 5 minutes. The amendment is a 2-percent reduction, as we have had on many of the appropriation bills.

The total amount of the bill is \$973 million. The nonmandatory section is \$598 million. Two percent amounts to approximately \$11.8 million. That is what we are voting on.

We are now over \$900 billion in debt.

□ 1900

We are now paying interest of approximately \$75 billion annually. If we are going to reduce the budget, we should reduce here in the House where we are paying expense for calendars and newsletters as we heard a little while ago. We should reduce this bill and bite the bullet. We are proposing that this bill be reduced \$11.8 million. I request a "yea" vote.

Mr. GRASSLEY. Mr. Chairman, will the gentleman yield?

Mr. MILLER of Ohio. I yield to the gentleman.

Mr. GRASSLEY. Mr. Chairman, I want to rise in support of the gentleman's amendment. I want to compliment the gentleman for the amendment. I think it does show the proper leadership we in the legislative body ought to show.

I also want to inform the Members of the House that legislation was passed in the other body on June 2 that would do about what the gentleman wants to do, only five times as much. To the extent to which the other body adopted an amendment offered by the Senator from Virginia, amended by the Senator from West Virginia, it cut the appropriations for that body for the next fiscal year by 10 percent. That amendment was offered to the authorization bill on the Council on Wage and Price Stability.

Surely if the other body can find it in their wisdom to agree by a very wide margin to a reduction of 10 percent across the board, we ought to be able to find room for a 2-percent reduction in our appropriation.

Mr. MILLER of Ohio. I yield back the balance of my time.

Mr. BENJAMIN. Mr. Chairman, I move to strike the last word.

(Mr. BENJAMIN asked and was given permission to revise and extend his remarks.)

Mr. BENJAMIN. Mr. Chairman, normally, the Miller amendment to impose a percentage reduction on the legislative branch appropriation bill should be opposed. However, for reasons I shall explain, I believe that we should accept a 2-percent reduction.

We had a similar reduction applied to the 1979 bill. In that case—which was 5 percent—a little over \$22 million was withheld from obligation. We have estimated the prospective impact of this amendment—a 2-percent reduction—would be about \$9,400,000. Based on our experience of 2 years ago, most of the legislative branch obligations are mandated by law—thus the \$9 million that

In Reply, Refer To

Your Reference:

July 21, 1980

MEMORANDUM TO HEADS OF DEPARTMENTS AND AGENCIES

The Office of Personnel Management, with the advice of other agencies, has prepared the following guidance in respect to awarding Senior Executive Service performance awards (bonuses). In part, this guidance reflects the appropriation act limitation restricting the proportion of SES members who may receive bonuses to no more than 25 percent of the number of SES positions in the agency. In addition, we are responding to strong Congressional concern that the 25 percent be viewed as a ceiling. We are therefore enunciating guidance on the number and distribution of awards which we strongly recommend agencies to follow. GAO in cooperation with OPM has been directed by the Congress to do a thorough study of bonus payments. Any agency which chooses to award bonuses in excess of the number or distribution recommended below must consult in advance with the Director of OPM.

1. Number of Awards

Agencies are limited in payment of bonuses to a maximum of 25 percent of SES positions. The Congress has made it clear that the 25 percent figure is to be a limit, not the norm. Agencies should generally limit bonuses to 20 percent of the eligible career employees. If the agency head feels a higher proportion is essential, he or she must consult with the Director of OPM.

2. Distribution of Awards

In deciding the amount of bonus to be paid, agencies with 100 or more career Senior Executives should not exceed the limitations shown below. These limits cannot be rigidly applied in small agencies, but should be considered as general guidelines.

- (a) Bonuses of 20% should be limited to no more than 5% of those receiving bonuses.
- (b) Bonuses of 17-20% should, in total, be limited to no more than 10% of those receiving bonuses.
- (c) Bonuses of 12-20% should, in total, be limited to no more than 25% of those receiving bonuses.

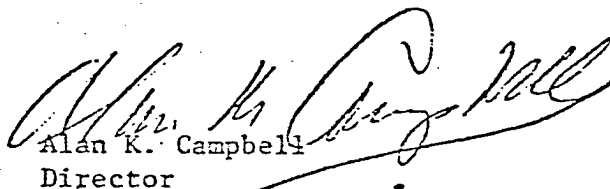
3. General Procedural Recommendations

(a) One area about which a number of legislators were concerned was the perception that members of Performance Review Boards would be taking care of themselves and their friends in the awarding of bonuses. We do not believe that this concern has substance, but to further add to the objectivity of the review process, an agency may wish to include on its PRB panel one or more members from another Federal agency. OPM will maintain a list of experienced career Senior Executives who could serve on PRB's across agency lines if the agency so requests. This same procedure might well be useful in the future in passing on proposed nominations for Meritorious and Distinguished Presidential Rank within an agency.

(b) Each agency should publish a notice in the Federal Register of the agency's schedule for awarding bonuses at least 14 days prior to the date on which the awards will be paid.

(c) Career Senior Executives are eligible for both bonus and rank awards. In general, agencies should avoid giving multiple awards to a single SES member in a year.

The SES system provides agency management with an unprecedented level of discretion. It is vital that this discretion be used responsibly to establish a sound foundation for the future.


Alan K. Campbell
Director